

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 838

Introduced by Assembly Member Spitzer

February 20, 2003

An act to add Section 57386 to the Government Code, relating to local agency formation.

LEGISLATIVE COUNSEL'S DIGEST

AB 838, as amended, Spitzer. ~~Newly incorporated cities: land use~~
Preincorporation regulations: City of Rancho Santa Margarita.

Existing law requires the city council of a newly incorporated city to adopt an ordinance making all county ordinances previously applicable, to remain in full force and effect as city ordinances for a period of 120 days after incorporation, or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first, except as specified.

This bill would require, upon the effective date of the incorporation of ~~any city occurring on or after January 1, 1999~~ *the City of Rancho Santa Margarita*, that any restriction or ~~covenant~~ *regulation* contained in a written instrument entered into relating to real property within the boundaries of the city that purports to regulate design or development standards, requirements, or conditions on the development, use, or occupancy of any commercial or industrial property is superseded, except as specified.

This bill would make legislative findings and declarations that special legislation is necessary within the meaning of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1.—The Legislature finds and declares of all of the~~

SECTION 1. Section 57386 is added to the Government Code,
to read:

57386. (a) The Legislature finds and declares of all of the
following:

(1) It is the intent of the Legislature that the newly incorporated
City of Rancho Santa Margarita be provided the broadest possible
opportunity to establish and implement necessary or desirable,
general plan policies, local zoning regulations, and building and
construction requirements while also preserving private property
rights.

(2) Certain regulations imposed by a master business
association predating incorporation that operate to limit use and
regulate development standards for commercial and industrial
property within the City of Rancho Santa Margarita frustrate the
ability of the city to establish and implement communitywide,
uniform, and consistent land use and building and construction
policies, regulations, and requirements. These regulations also
serve to unreasonably restrict opportunities for full and free
competition among business enterprises that are necessary for the
continued financial viability of the City of Rancho Santa
Margarita.

(3) It is the public policy of this state that the incorporation of
the City of Rancho Santa Margarita constitutes a significant
changed circumstance and significant societal interest that
supports a determination that certain preincorporation private
land use restrictions or regulations be superseded to the extent that
these restrictions or regulations are in conflict with the new city's
general plan policies, local zoning regulations, or building and
construction requirements.

(b) Upon the effective date of the incorporation of the City of
Rancho Santa Margarita, any restriction or regulation contained
in a written instrument entered into relating to real property within
the boundaries of the city that purports to regulate design or
development standards, requirements, or conditions on the

1 *development, use, or occupancy of any commercial or industrial*
2 *property are superseded to the extent they are inconsistent or in*
3 *conflict with any of the city's general plan policies, local zoning*
4 *regulations, or building and construction requirements.*

5 *SEC. 2. Due to the unique circumstances of the City of Rancho*
6 *Santa Margarita with respect to the need to supersede*
7 *preincorporation restrictions or regulations that are inconsistent*
8 *or in conflict with development in the area, the Legislature hereby*
9 *finds and declares that a general statute cannot be made*
10 *applicable within the meaning of Section 16 of Article IV of the*
11 *California Constitution. Therefore, the special legislation*
12 *contained in Section 1 of this act is necessarily applicable only to*
13 *the City of Rancho Santa Margarita.*

14 *following:*

15 ~~(a) It is the intent of the Legislature that newly incorporated~~
16 ~~cities be provided the broadest possible opportunity to establish~~
17 ~~and implement general plan policies, local zoning regulations, and~~
18 ~~building and construction requirements necessary or desirable for~~
19 ~~the local communities these cities serve while also preserving~~
20 ~~private property rights.~~

21 ~~(b) Restrictions and covenants predating incorporation that~~
22 ~~operate to limit use and regulate development standards for~~
23 ~~commercial and industrial property frustrate the ability of newly~~
24 ~~incorporated cities to establish and implement communitywide,~~
25 ~~uniform, and consistent land use and building and construction~~
26 ~~policies, regulations, and requirements. These restrictions and~~
27 ~~covenants also serve to unreasonably restrict opportunities for full~~
28 ~~and free competition among business enterprises that are~~
29 ~~necessary for the continued financial viability of newly~~
30 ~~incorporated cities.~~

31 ~~(c) It is the public policy of this state that the incorporation of~~
32 ~~a new city constitutes a significant changed circumstance and~~
33 ~~significant societal interest that supports a determination that~~
34 ~~certain private land use restrictions and covenants be superseded~~
35 ~~to the extent that these restrictions and covenants are in conflict~~
36 ~~with the new city's general plan policies, local zoning regulations,~~
37 ~~or building and construction requirements.~~

38 ~~SEC. 2. Section 57386 is added to the Government Code, to~~
39 ~~read:~~

1 ~~57386. Upon the effective date of the incorporation of any city~~
2 ~~occurring on or after January 1, 1999, any restriction or covenant~~
3 ~~contained in a written instrument entered into relating to real~~
4 ~~property within the boundaries of the city that purports to regulate~~
5 ~~design or development standards, requirements, or conditions on~~
6 ~~the development, use, or occupancy of any commercial or~~
7 ~~industrial property are superseded to the extent they are~~
8 ~~inconsistent or in conflict with any city general plan policies, local~~
9 ~~zoning regulations, or building and construction requirements.~~

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